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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

EJY

WESCO INSURANCE COMPANY as subrogee
of its insured NICKELS AND DIMES
INCORPORATED,

Plaintiff,

vs.

SMART INDUSTRIES CORPORATION dba
SMART INDUSTRIES CORP., MFG., an Iowa
corporation,

Defendants.

Case No.: 2:16-cv-01206-JCM-~~CWH~~

CONSOLIDATED FOR PURPOSES OF
DISCOVERY AND TRIAL

JENNIFER WYMAN, individually; BEAR
WYMAN, a minor, by and through his natural
parent JENNIFER WYMAN; JENNIFER
WYMAN and VIVIAN SOOF, as Joint Special
Administrators of the ESTATE OF CHARLES
WYMAN,

Plaintiffs,

vs.

SMART INDUSTRIES CORPORATION dba
SMART INDUSTRIES CORP., MFG.; HI-TECH
SECURITY INC; WILLIAM ROSEBERRY;
BOULEVARD VENTURES, LLC; SANSONE
COMPANIES, LLC; DOES I through V; and
BUSINESS ENTITIES I through V, inclusive,

Defendants.

Case No.: 2:16-cv-02378-RFB-GWF

**DEFENDANT SMART INDUSTRIES
CORPORATION dba SMART
INDUSTRIES CORP., MFG.'S MOTION
FOR LEAVE TO APPEAR VIRTUALLY
AT SETTLEMENT CONFERENCE**

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1 A Settlement Conference has been scheduled in the above referenced matter for Wednesday,
 2 April 27, 2022 with Magistrate Judge Elayna J. Youchah. Pursuant to the Order Setting Settlement
 3 Conference filed on February 28, 2022, any party desiring an exception from personally attending
 4 the settlement conference must submit a request, after consultation with opposing counsel, a least 7
 5 days before the settlement conference.

6 Counsel for each of the plaintiffs (namely Peter Dubowsky for Plaintiff Wesco Ins. Co.,
 7 Brittney Glover for Wyman Plaintiffs, and Cliff Marcek for Rodriguez Plaintiffs) have given defense
 8 counsel their consent that *both* representatives for Defendant Smart Industries Corp. and its carrier
 9 be permitted to appear remotely instead of in person. As Ms. Glover stated, “As long as the
 10 individuals appearing have settlement authority, we do not have an issue with your client and carrier
 11 appearing virtually for the upcoming settlement conference.”¹ And, this Court has already granted
 12 leave for the representative for Defendant Smart Industries Corp.’s carrier to appear virtually. ECF
 13 No. 367 (minute order dated 04/06/2022).

14 The president of Defendant Smart Industries, Jeff Smart, will be out of the country in Taiwan
 15 at the time of the settlement conference. Accordingly, the company’s vice president, Jeff DuPree
 16 intends to appear on behalf of Defendant Smart Industries. However, it would pose an unusual
 17 burden for Smart Industries to have both its president and vice president out of state simultaneously
 18 for multiple days. Smart Industries is based in the State of Iowa. If Mr. DuPree were to travel to
 19 Las Vegas, Nevada it would require that he be out of the office for multiple days.
 20

21 Furthermore, upon information and belief, Mr. DuPree currently suffers from a fractured
 22 shoulder. Requiring him to travel to Las Vegas, Nevada would further require that he be estranged
 23 from his medical providers for that period, risk injury to his shoulder during the 5+ hrs. flights to
 24 and from Las Vegas, Nevada, and also expose him to the risks of COVID-19. Accordingly,
 25 appearing personally for the settlement conference would create an unusual burden.
 26

27
 28 ¹ See April 5, 2022 Email Correspondence attached as **Exhibit A**.

Defendant respectfully requests that Mr. DuPree be allowed to attend the settlement conference remotely via videoconference. That way, Mr. DuPree would be able to participate in good faith, without concerns about risks associated with travel. Defendant also notes that the Court, counsel of record, and Mr. DuPree have all developed greater capability at videoconferencing in recent years owing to the pandemic.

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/s/ Joseph Meservy

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Attorneys for Defendant

Smart Industries Corporation

IT IS SO ORDERED.

IT IS FURTHER ORDERED that counsel for Defendant Smart Industries must bring to the settlement conference a computer with the necessary programming or application to allow counsel to connect with Smart Industries representative and its insurer by video conference for the entirety of the settlement conference.


U.S. MAGISTRATE JUDGE

Dated: April 8, 2022

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